Remarks

Reconsideration of the claims in light of the Remarks, which follow, is respectfully requested.

Claims before the Examiner are 1-4 and 6-19.

The numbering in this Response will follow that of the Office Action of April 7, 2006.

1. No response necessary

Rejections Under 35 USC § 103

2. *Claims 1-1 stand rejected under 35 USC § 103(a) as obvious over US 4,530,914 (Ewen) in view of US 5,648,428 (Reddy) and US 4,931,417 (Miya).*

The Examiner states that Applicants' arguments of February 20, 2006 are irrelevant to the rejection of record. The Examiner apparently takes the position that Applicants did not recognize that Ewen was the primary reference. This is incorrect. Applicants previous arguments were made with Ewen as the primary reference, even though not explicitly stated. There is no dispute about the disclosure of Ewen, comprising two metallocenes. However, Reddy must be viewed for all that it teaches, not just Reddy's use of mineral oil.

"A reference must be considered for everything it teaches by way of technology and is not limited to the particular invention it is describing and attempting to protect. On the issue of obviousness, the combined teachings of the prior art as a whole must be considered." *EWP Corp. v. Reliance Universal, Inc.*, 755 F.2d at 907, 225 U.S.P.Q. at 25.

"[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241, 147 U.S.P.Q. 391, 393 (C.C.P.A. 1965); *see also Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448-49, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986).

Accordingly, it is the Applicants' position that, Applicants' arguments of February 20th are still valid.

Applicants intended that no matter the primary-secondary nature of the references, to combine Ewen (primary) with Reddy (secondary), the Examiner cannot ignore the remaining disclosure of Reddy because whether it were Ewen/Reddy or Reddy/Ewen, the combination is still the same, and was addressed by Applicants. Applicants stand by their previous (additional) argument regarding the combination destroying the function of Reddy. Repeated below for continuity.

To combine the disclosures of Reddy and Ewen, in the Examiner's scheme, one would have to not activate one of the two Reddy catalysts (either Ziegler or metallocene) and/or one would have to replace the Ziegler catalyst with a second metallocene. Either of these modifications and certainly both, would destroy the intended function of Reddy. Specifically, Reddy seeks to have both syndiotactic and isotactic polypropylene result from Reddy's mixed catalyst system. Replacing the Ziegler catalyst would destroy this intent. Additionally, Reddy activates both catalysts separately (using different, respective known activators) then combines them. To combine Reddy with Ewen, presumably one of the two Reddy catalyst systems would have to go unactivated, destroying the intent of Reddy. Therefore the motivation to make the modification suggested by the Examiner does not exist. *See In re Fritch*, 972 F.2d at 1265 n.12, 23 U.S.P.Q.2d at 1783 n.12 ("A proposed modification [is] inappropriate for an obviousness inquiry when the modification render[s] the prior art reference inoperable for its intended purpose."). The application of Miya to this Ewen-Reddy combination does not solve the destruction of Reddy's intent, and is therefore not relevant to the combination.

Accordingly no Obviousness exists. Withdrawal of the Rejection is respectfully requested.

All of the Examiner's Rejections have been addressed.

The claims are in condition for allowance.

Application No. 10/664,301
Docket No. 2002U023.US
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Response dated: June 21, 2006

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CERTIFICATE OF TRANSMISSION/MAILING UNDER 37 CFR 1.8(a)

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6.21.06
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